

DEPARTMENT OF STATE REVENUE

01-21071234.LOF

Letter of Findings Number: 01-20171234
Individual Income Tax
For Tax Year 2014

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual did not provide any documentation or analysis in support of his protest. Therefore, Individual did not meet the burden of proving the proposed assessment wrong.

ISSUE**I. Individual Income Tax–Adjustment.**

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Wendt LLP v. Indiana Dept. of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); [45 IAC 3.1-1-1](#).

Taxpayer protests the imposition of income tax.

STATEMENT OF FACTS

Taxpayer is an individual Indiana resident. As the result of a cross-check with federally-reported tax information, the Indiana Department of Revenue ("Department") determined that Taxpayer had under-reported his 2014 individual Indiana income tax. The Department therefore issued a proposed assessment for individual income tax, penalty, and interest for that year. Taxpayer filed a written protest and requested that the Department issue its final determination without holding an administrative hearing. This Letter of Findings results. Further facts will be supplied as required.

I. Individual Income Tax–Adjustment.**DISCUSSION**

Taxpayer protests the imposition of individual income tax for the tax year 2014. The Department based its proposed assessment on the basis that the federal government exchanged information with the Department which indicated that Taxpayer reported more income to the federal government than he reported to Indiana. The Department therefore imposed Indiana income tax on the difference between the federally-reported and the state-reported amounts. Taxpayer's protest letter states, "I am protesting because this is the 3rd time my 2014 tax year has been under some type of assessment. I have gone through this two other times and most recently during June/July 2017 when I was trying to buy a new home. I received a notice that had to be handled to close on my mortgage. I am completely unaware of any additional [i]ncrease in income during 2014 tax year. I would appreciate a speedy resolution in this matter as it seems to be a never ending issue." This is the entirety of Taxpayer's protest.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the]

statute even over an equally reasonable interpretation by another party." *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

IC § 6-3-2-1 (a) states:

(a) Each taxable year, a tax at the following rate of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person:

(1) *For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4[percent]).*

(2) *For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3[percent]).*

(3) *For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23[percent]).*

(Emphasis added).

IC § 6-3-1-3.5 defines adjusted gross income as:

When used in this article, the term "adjusted gross income" shall mean the following:

(a) *In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:*

....
(Emphasis added).

[45 IAC 3.1-1-1](#) further describes adjusted gross income:

Adjusted Gross Income for Individuals Defined. For individuals, "Adjusted Gross Income" is "Adjusted Gross Income" as defined in Internal Revenue Code § 62 modified as follows:

(1) Begin with gross income as defined in section 61 of the Internal Revenue Code.

(2) Subtract any deductions allowed by section 62 of the Internal Revenue Code.

(3) Make all modifications required by [IC 6-3-1-3.5\(a\)](#).

A review of the Department's records shows that, while Taxpayer has had Indiana income tax issues for prior years, the proposed assessment at issue in this protest is the only adjustment made by the Department for 2014. Further, even if there had been other issues in 2014, Taxpayer has not explained how that would preclude the Department from making this assessment. Simply stating that you disagree with the Department's assessment does not constitute a protest.

In this case, Taxpayer has not provided any analysis or documentation in support of his bare protest of the assessment for 2014. Taxpayer has not presented a sufficiently developed argument for the Department to address. See *Wendt LLP v. Indiana Dept. of State Revenue*, 977 N.E.2d 480, 485 n.9, (Ind. Tax Ct. 2012) (stating in a footnote parenthetical "that poorly developed and non-cogent arguments are subject to waiver" by the Indiana Tax Court) (citing *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax. Ct. 2010)). Therefore, Taxpayer has failed to meet the requirement of proving the proposed assessments wrong, as provided by IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is denied.

February 28, 2018

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An [html](#) version of this document.